

REMARKS

This current Reply is responsive to a current and Non-final Office Action dated 11/21/2005. Claims 1-39 were examined, and claims 1-39 were rejected.

The current Reply does not cancel any of claims 1-39. However, some of claims 1-39 are amended, as indicated above. Additionally, new claims 40-44 are being added. Hence, after entry of the current Reply, the instant Application now presents claims 1-44 for examination.

Of claims 1-44, five (5) claims are independent. These five independent claims are claims 1, 16, 28, 33, and 34.

Generally, the current Office Action rejected claims 1-39 under 35 U.S.C. §§ 102(e) and 103(a).

Specifically, the current Office Action rejected the claims as follows:

Claims 1-4, 6-8, 12, 13, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Morris et al. (6,691,173).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris as applied to claims 1, 3, 4 above, and further in view of Briancon (6,640,222).

Claims 9-11, 14, 16-32, 34, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morris as applied to claims 1 and 8 above, and further in view of Hild et al. (6,532,368). [...] Claims 34 and 36 are drawn to the limitations in claim 16. Therefore, since claim 16 is rejected, claims 34 and 36 are also rejected for the reasons above.

Claims 37-39 are drawn to the limitations in claims 6, 9, and 7, respectively. Therefore, since claims 6, 7, and 9 are rejected, claims 37-39 are also rejected for the reasons above.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Monis and Hild as applied to claim 34 above, and further in view of Briancon, as applied to claim 5 above.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morris as applied to claim 1 above, and further in view of Davies et al. (6,664,891).

The current Office Action's characterization of certain claims being drawn to the same limitations of other claims is respectfully traversed. On the contrary, each claim includes its own unique combination of elements. For example, the elements forming independent claim 34, particularly when taken as a whole, differ from those elements forming independent claim 16, particularly when taken as a whole. Accordingly, it is respectfully submitted that each claim, especially each independent claim, should be interpreted and examined individually.

1 I. Generally, no art of record, either alone or in any combination, anticipates or
2 renders obvious at least the following elements in conjunction with the other
3 elements of their respective claims:

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5 Claim 1: storing the first information at the second mobile device in a
6 second tree data structure.

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8 Claim 16: storing the second information in a first tree data structure.

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10 Claim 28: a memory storing a computer program to establish an
11 instantaneous network with a second device using the ad hoc
12 networking capability, to send first information from a first tree
13 data structure stored in the memory where the second device has a
14 receiving configuration, and to receive second information from
15 the second device and store the second information in the first tree
16 data structure where the device has a receiving configuration.

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18 Claim 33: storing the information in an intermediary tree data structure
19 at the intermediary mobile device [...] automatically sending the
20 information from the intermediary tree data structure at the
21 intermediary mobile device to the second mobile device.
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2 Claim 34: storing the information in an intermediary tree data structure
3 at the intermediary mobile device [...] sending the information
4 from the intermediary tree data structure at the intermediary
5 mobile device to the third mobile device via the second
6 instantaneous network.
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8 More specifically, it is respectfully submitted that no art of record, either
9 alone or in any combination, suggests using a tree data structure for information
10 about nodes of an instantaneous wireless network.
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II. Briancon cannot be used in a 35 U.S.C. §103 rejection because it is not analogous art.

The M.P.E.P. reads at §2141.01(a) (Rev. 3, August 2005) at page 2100-127 in the left-hand column:

2141.01(a) Analogous and Nonanalogous Art [R-3]

I. TO RELY ON A REFERENCE UNDER 35 U.S.C. 103, IT MUST BE ANALOGOUS PRIOR ART

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992). [...]

The current Office Action appears to rely on Briancon (6,640,222) to reject "tree structure" from previous claim 5. However, Briancon is directed to data management by valuing often conflicting data units based on probable relevance. See, e.g., the Abstract of Briancon along with Column 2/Lines 32-44.

Briancon is not directed to wireless networks in any manner, much less to information exchange between non-networked devices of ad hoc/instantaneous wireless networks. Accordingly, it is respectfully submitted that Briancon is *not* analogous art. Consequently, Briancon cannot be relied on as a reference under 35 U.S.C. §103.

III. Moreover, no art of record, either alone or in any combination, suggests that levels between nodes of a tree data structure may indicate degrees of separation between wireless devices represented by the nodes.

Accordingly, it is respectfully submitted that dependent claims 5, 35, and 40-44 are allowable over the art of record for this additional reason.

Furthermore, claims 2-4/6-15, 17-27, 29-32, and 36-39 depend from independent claims 1, 16, 28, and 34, respectively. Reasons for the allowability of independent claims 1, 16, 28, and 34 have been provided above. Although each of these dependent claim also includes additional element(s) militating toward allowability, they are allowable at least for the reasons given above in connection with their respective independent claims.

CONCLUSION

It is respectfully submitted that all pending claims 1-44 are allowable. Applicants respectfully request reconsideration and allowance of the instant Application.

Furthermore, if any issues remain that preclude allowance and/or issuance of this Application, the Examiner is requested to contact the undersigned attorney before issuing a Final Office Action.

Respectfully submitted,

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